

METHODS AND MEANS IN MUNICIPAL



Province of
British Columbia

Ministry of Provincial Secretary
and Government Services
Hon. H.A. Curtis, Minister

While every attempt has been made to set out the provisions and implications of the Heritage Conservation Act, the reader of this pamphlet should consult his solicitor on questions concerning a legal interpretation of the Heritage Conservation Act.



Methods and Means in Municipal Heritage Conservation

This pamphlet is an outline of the methods and means of municipal heritage conservation established in Part III of the Heritage Conservation Act. Although it is primarily designed to meet the needs of municipal councilors, officials, and heritage advisory committees, it is also intended to help all those who are involved in the protection and development of the heritage resources in our towns and cities to understand the legislative background of their activity.

Part III of the Heritage Conservation Act gives the municipalities of British Columbia powers to support and maintain their historic and architectural inheritance. These powers include provisions for the designation of heritage properties, the formation of municipal heritage advisory committees, the provision of compensation or incentives by municipalities to the owners of heritage properties, and powers to delay work where a property having possible heritage significance is threatened. This pamphlet will discuss each of these topics and includes a possible approach to the area of owner compensation based on the City of Victoria's tax incentive programme.

Municipal Heritage Advisory Committees

Of the means available to a municipality for the conservation of its heritage, the formation of the municipal heritage advisory committee is the most important. This committee may be formed under legislation provided by Section 15 of the Act. This section states that *'A council may, by by-law, establish a municipal heritage advisory committee to advise the council on any matter arising under this part.'* In addition, Section 15 allows the council to appoint the members and establish the rules of practice and procedure of the committee. Council may also provide a budget for the committee's expenses. A model by-law for the formation of a municipal heritage advisory committee is provided as Appendix I to this pamphlet.

To a large extent, the success of the advisory committee's activities will depend on the composition of its membership. This should reflect a wide and balanced range of heritage interests. This is difficult to achieve. However, a council will probably find that the time spent in the initial selection process will be repaid many times over by the activities of a successful committee.

The ideal composition of an advisory committee would include all or some of the following people: architects, archaeologists, historians, planners, and an alderman or other council appointment. The latter is particularly important. It offers a link with the citizens of a community, by including one of their elected representatives, and with the political realities faced by council in their decision making. Obviously, in a smaller community, it may be neither possible nor desirable to have the complete range of interests outlined above represented on the advisory committee. In such cases, it becomes important to choose a group who are at one and the same time well informed on the strong points of a community's heritage and as free as possible from prejudice in their own area of expertise.



What Does a Municipal Advisory Committee Do?

The municipal heritage advisory committee should assume a broad responsibility for heritage conservation in a community. Under the legislation which provides for their existence, they may be given powers with wide-ranging application and full use should be made of this provision.

The primary function of this committee should be to establish a heritage inventory. This is a listing of all buildings and sites in a community which are deemed to have heritage potential. The committee may wish to have a local heritage or historical society carry out the actual inventory, particularly in a larger community. However, the inventory should be closely supervised by the advisory committee with whom the responsibility for its successful completion rests. In addition, the format of the inventory should be established by the committee.

Once the inventory has been satisfactorily completed, it is the advisory committee's duty to assess it with regard to municipal heritage conservation. The committee should establish criteria for evaluation of the inventory and for designation. When the assessment has been completed, council should be notified. The committee should then present a detailed report on their choices including an explanation of the principles underlying these choices. It must be stressed, however, that the decision whether or not to protect a given property by designation or by other means such as facade covenants, heritage zoning, etc., rests with council.

The heritage inventory is only the initial foundation of the municipal advisory committee's activities. Once it has been completed and council advised, the committee should assume a variety of on-going responsibilities. These might include some or all of the following tasks: the advising of council on heritage policies including those affecting planning; development and review of building and demolition permits; liaison with groups or individuals

affected by or interested in heritage legislation and conservation, including local business groups, the inhabitants of a long-established ethnic area and the owners of heritage properties; and co-ordination with other regional heritage groups. A municipal heritage advisory committee may be able to act as an advisory body to local museums and archives with regard to acquisition policy and, to integrate their activities into the heritage conservation movement of the area. The committee should also assume an educational role to increase public awareness in the community, arranging lectures, meetings, slide shows, films, tours, and so forth. In the larger centres of British Columbia this educational role might also include a small publications programme which may include pamphlets of local or tourist interest such as 'Heritage Walks' through the community. Finally, the committee may be given responsibility for a miscellany of projects such as co-ordinating restoration, rehabilitation projects, and liaison with provincial and federal government agencies.

The Designation Process

Designation is a process established in the Heritage Conservation Act by which a municipality may protect heritage property. This protection is created by the enactment of a designation by-law which may affect the property in whole or in part. Examples of both types of by-laws are given as Appendix II to this pamphlet. With the exception of the Province, no person or institution other than a municipality can enact a heritage designation.

The designation process is defined by Section II of the Heritage Conservation Act. Designation extends to buildings, structure, and land in whole or in part. Before adopting a designation by-law, council must give notice of its intention to the owner of the property affected by the by-law. Such notice must be

given in person or by registered letter 'at least 10 days before the date of consideration by council of the motion to adopt the by-law' and include advice on how the owner may object. Council must also publish notice of its intention in a newspaper 'of general circulation within the community.' A full account of these procedures will be found in Section 11 which is as follows:

(1) *A council may, by by-law, designate a building structure, or land, in whole or in part, as a municipal heritage site.*

(2) *No by-law under subsection (1) shall be adopted by the council unless notice of its intention to consider the by-law is*

(a) *mailed by registered mail or delivered to the owner of a building, structure, or land, at least 10 days before the date of consideration by council of the motion to adopt the by-law, advising him how he may object and*

(b) *published in not less than 2 consecutive issues of a newspaper of general circulation within the municipality with the last publication appearing not less than 3 days, or more than 10 days, before the date described in paragraph (a).*

(3) *Notice under subsection (2) (a) shall be deemed to have been given 3 days after having been sent by registered mail addressed to the owner at his last known address.*

(4) *Where designation under subsection (1) decreases the economic value of the building, structure, or land, the council may, by by-law, provide a grant, loan, tax relief, or other compensation to the owner.*

(5) *Compensation provided under subsection (4) shall be deemed to be full and fair compensation for loss or damage suffered by the owner through designation.*

Compensation measures, which are provided for in Section 11, are discussed under the heading "Ongoing Conservation of Heritage Property."

Once a designation has been completed, it is the council's responsibility to register this fact with the minister responsible for administering the Heritage Conservation Act. This is done by filling out Municipal Heritage Site Registry — Form A, which is self-explanatory, and submitting it to the Heritage Conservation Branch with a copy of the by-law, a facade photograph, and simple site plans. Similarly, if council at anytime alters or revokes a designation by-law, the minister responsible must be notified. This is done by filling out Municipal Heritage Site Registry — Form B and submitting it to the Heritage Conservation Branch. Forms A and B are reproduced in Appendix III.



Temporary Delay of Work to Protect Threatened Property

In addition to the protection afforded by Section 12, a municipality may effect a temporary delay of work. Such delay may provide a useful preventative measure when a council is undecided on the significance of an endangered building. Section 14 of the Act grants the necessary powers for a council to delay work. These powers are of two kinds. First, in circumstances where a council feels that a property of potential heritage significance is endangered, it may order, by resolution, that the property be left unaltered for a period not exceeding thirty days. Secondly, a further delay of work may be effected under Section 14 (1) (b) which allows that *'where a by-law is introduced in council pursuant to section 11,'* the potentially designate property must remain unaltered until the by-law is adopted or rejected or *'60 days pass after the making of the motion and it has not been adopted.'* However, the delay of work effected under Section 14 must not exceed a total of 90 days. The municipality is under no obligation to compensate the owner for such temporary delays.

Ongoing Conservation of Heritage Property

The points discussed under this heading include the legal obligations of an owner of designated heritage property, compensation and a potential model for a municipality's involvement in the provision of incentive programmes in the heritage field, an outline of the procedures to be followed when applying to the British Columbia Heritage Trust for financial aid, and applications for technical assistance to the Heritage Conservation Branch.

Owner's Responsibilities

The obligations of an owner of designated heritage property are described by Section 12 (a), (b) and (c). Assuming that a property has been designated either in whole or in part under Part III of the Act, subsection (a) states that '*no person shall demolish a building or structure;*' subsection (b) that no person shall '*alter the facade or exterior of a building or structure;*' and subsection (c) that no person shall '*build on land*' so designated. Contravention of Section 12 is an offence. However, under appropriate circumstances, a municipal council may, by by-law, vary the terms of the designation.

Compensation and Incentives

Section 11 (4) of the Heritage Conservation Act provides for compensation where designation can be shown to decrease the economic value of the building structure or land. Where applicable this should be done by separate by-law following the designation and after the compensation has been determined with reference to the decrease in value. Although the sub-section is not mandatory, by implication it suggests that compensation should be paid to the person whose land has been designated to cover the decrease in value caused by the designation. Council should therefore carefully consider this area of compensation prior to the designation, or at least during the period of time set out under Section 14. It would seem that Council must, by policy, set out some means of fairly and equitably determining the compensation to be paid to an owner.

The creation of a programme of incentives to the owners of designated heritage property may serve two purposes. It can satisfy any compensation requirements as well as provide a constructive adjunct to a council's endeavours to put heritage in a positive context for the community it serves.



Progressive municipalities are developing incentive programmes. As an example, the City of Victoria has developed a programme for residential buildings which have been designated. The residential programme has been implemented under by-law No. 7331.

The salient features of the residential programme provide for the establishment of an account for each designated heritage house in the city. An amount equal to the gross real property tax levied against a heritage property in any given year is credited to the account of that property on the 31st December of that year. Subsequently, should the owner of a designated heritage property wish to undertake repairs or improvements to the structure or facade of his property, or that part of his property which has been designated, he may apply to the City for a grant in aid of his undertaking. If the application is allowed, the account established for the property is debited an amount equal to that granted. The by-law governing the programme also provides for various conditions and limitations on money, time periods, and so forth.

Financial Assistance

The Heritage Conservation Act established the British Columbia Heritage Trust. One of their functions is to provide financial assistance for bona fide heritage projects.

Any organizations applying to the Trust for project assistance should observe the following procedure:

- Write a concise covering letter, enclosing detailed project information and back-up material with it, and address it to: The Secretary, British Columbia Heritage Trust, Parliament Buildings, Victoria, B.C. V8V 1X4.
- The covering letter should state clearly on a single page who you are and the nature of your organization; it should contain a brief descriptive outline of your project and its total estimated cost; finally you must state the actual amount of financial participation that your organization is seeking from the British Columbia Heritage Trust.
- You may wish to enclose with this letter details of your organization, its objectives, achievements, when it was founded, a list of your Board of Directors, and a copy of your financial statement.
- You should attach a detailed description of your project, including historical notes, photographs, and drawings if they are available.
- You should also enclose a breakdown of the total estimate of cost of the project, including acquisition costs if applicable, and should show how the project is to be financed including the sources of funding.

Assistance from the Heritage Conservation Branch

The Heritage Conservation branch has a staff of professional, technical, and research people to provide assistance to municipalities, organizations, and individuals needing advice on heritage conservation, preservation techniques, and historical research.

Requests for assistance should be made by writing to the Director, Heritage Conservation Branch, Ministry of Provincial Secretary and Government Service, Parliament Buildings, Victoria, B.C. V8V 1X4.

APPENDIX I

To establish a Heritage Advisory
Committee in and for
The Municipal Council of The Corporation of
enacts as follows:

1. This by-law may be cited as the "Heritage Advisory Committee Establishment By-law."
2. A Committee to be known as the "Heritage Advisory Committee" (hereinafter referred to as "the Committee") is hereby established pursuant to Section 15 of the Heritage Conservation Act, S.B.C. 1977, Chap. 37.
3. The members of the Committee shall be _____ in number and shall be appointed at any regular meeting of the Council.
4. (a) It shall be the duty of the Committee to advise the Council on those matters coming within the scope of PART III of the Heritage Conservation Act which are from time to time referred to it by the Council and, in particular, to make recommendations to Council respecting designation of heritage buildings, structures, and lands and the demolition, preservation, alteration, or renovation of those buildings, structures and lands;
- (b) When any matter is referred to the Committee pursuant to this by-law the Committee shall, where possible, meet and report back on such matter to the next general meeting of the Council.
5. (a) The Committee shall be presided over by a Chairman who shall be elected annually by a majority vote of the members of the Committee from among the said members;
- (b) The Chairman may from time to time appoint a member of the Committee as Acting Chairman to preside in his absence;
- (c) Meetings of the Committee shall be at the call of the Chairman, who shall give or cause to be given to each member not less than 24 hours notice of each meeting, provided that such notice may be waived by unanimous vote of the Committee;
- (d) a majority of the members of the Committee shall constitute a quorum;
- (e) The Chairman shall preserve order at all meetings and decide all points of order which may arise;
- (f) All questions before any meeting of the Committee shall be decided by a majority of the members present including the Chairman and the Chairman shall in addition have a deciding vote in the event of an equality of votes;

Appendix I (continued)

(g) The Chairman shall cause minutes of all meetings and proceedings of the Committee to be recorded in a book kept for that purpose and shall forthwith after the adoption by the Committee of such minutes sign and deliver the same to the City Clerk;

(h) Save with respect to matters expressly dealt with or provided for in this by-law, the rules governing proceedings of the Committee shall be those governing proceedings of the Council under the precedural by-law of Council passed under Section 172 of the Municipal Act, insofar as the said rules may be applicable.

DONE AND PASSED in open council this _____ day of _____, 1979.

APPENDIX II

A By-law to designate (name of building) as a municipal heritage site.

The Municipal Council of the Corporation of () enacts as follows:

1. This By-law may be cited as the "Heritage Designation By-law No. _____" passed pursuant to the provisions of Section 11 of the Heritage Conservation Act.
2. The building known as (name of building) is hereby designated as a municipal heritage site.

or

Describe the parts of the building, (i.e. the north and east facades above the ground floor ceiling level and roof) of the building known as (name of building) is hereby designated as a municipal heritage site.

3. Pursuant to the provisions of Section 11 of the Heritage Conservation Act the following land is hereby designated as a municipal heritage site: (legal description)

DONE AS PASSED in open council this _____ day of _____, 1979.

APPENDIX III

MINISTRY OF PROVINCIAL SECRETARY
AND GOVERNMENT SERVICES
HERITAGE CONSERVATION BRANCH
PARLIAMENT BUILDINGS
VICTORIA, B.C. V8V 1X4

MUNICIPAL HERITAGE SITE REGISTRY
Form A—Designation

Municipality Clerk
Address Telephone No.

Site Description

Name

Legal description

Owner(s)

Address(es)

Heritage Significance

Architectural merit

Please enclose a copy of the by-law, a facade photograph of the site, and a simple site plan
indicating the relative positions of buildings and streets or roads.

.....
Signature of Clerk

Appendix III (continued)

MINISTRY OF PROVINCIAL SECRETARY
AND GOVERNMENT SERVICES
HERITAGE CONSERVATION BRANCH
PARLIAMENT BUILDINGS
VICTORIA, B.C. V8V 1X4

MUNICIPAL HERITAGE SITE REGISTRY
Form B—Variation or Revocation

Municipality Clerk

Address Telephone No.

Site Description

Name

Legal description

Owner(s)

Address(es)

Reasons for revocation

Details of variation

Please enclose a copy of the varying or revoking by-law.

.....
Signature of Clerk



Illustrations by **GEORGE H. KERR**